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FILED

JUL 23 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

11 PATRICIA C. BARBERA,

12 Plaintiff,

13 v

14 WMC MORTGAGE CORPORATION

16 Defendant,

19 CAL LAND TITLE COMPANY OF MARIN,

20 Defendant,

21 SELECT PORTFOLIO SERVICING, INC,

22 Defendant,

CASE NO. CV 08-2677 ^{SBA} ~~2677~~

[Removal from Superior Court of
California, County of Marin,
Case No. CV 081763]

ADMINISTRATIVE MOTION OF
PLAINTIFF BARBERA'S
TO SHORTEN THE TIME OF THE
HEARING TO STRIKE
FRAUDULENT DOCUMENTS;
REQUEST JUDICIAL NOTICE;
AND TO VACATE THIS CASE AND
REMAND IT TO THE STATE COURT
FROM WHICH IT CAME; AND
FINDINGS.

BY FAX

[FEDERAL QUESTION]

25 1. INTRODUCTION

26 Pursuant to Civil Local Rule 6-3, Plaintiff PATRICIA C. BARBERA submits this

28 REQUEST FOR JUDICIAL NOTICE

1 Administrative Motion to Shorten the Time of the Hearing to Strike Fraudulent Documents and
2 to vacate this case and to remand it to the state court from which it came, and findings.

3 This Administrative Motion is submitted on the grounds that good cause exists for this
4 Court to shorten the time to stop any more fraudulent actions.

5 Accordingly, Plaintiff respectfully requests that this Court grant the instant
6 Administrative Motion. This Motion is based on the following Memorandum of Points and
7 Authorities, the Declaration of Patricia C. Barbera, and the Proposed Order filed and lodged
8 concurrently herewith.

9 INTRODUCTORY STATEMENT

10
11 On April 11, 2008, Plaintiff PATRICIA C. BARBERA filed a Complaint in the Marin
12 County Superior Court, case CV 081763. The Defendants were; WMC MORTGAGE
13 CORPORATION, SELECT PORTFOLIO SERVICING, INC, and CAL LAND TITLE
14 COMPANY OF MARIN. Barbera is 77 years old and has been in 'Financial Abuse' at the hands
15 of the Notorious Predatory Lender, WMC MORTGAGE and their co-hort, the Notorious
16 Predatory SELECT SERVICING for a decade.

17 On May 23, 2008, BARBERA was granted a 'Temporary Restraining Order, Specific
18 Performance and Preliminary Injunction' by Judge Taylor, and was on the way to an expedited
19 case.

20 On May 28, 2008, Law Firms: REED SMITH, WRIGHT, FINLAY & ZAK, and THE
21 LAW OFFICE OF DANIEL A. GAMER filed a *NOTICE OF REMOVAL OF ACTION*, which
22 efftely ceased any further litigation in the State Court.

23 STATUS:

24 1. May 28, 2008 was the deadline for WMC MORTGAGE to "Answer Their
25 Summons". They failed to do that and were *IN DEFAULT*.

26 2. SELECT SERVICING filed a demurrer timely.
27
28

REQUEST FOR JUDICIAL NOTICE

1 3. CAL LAND, Who Had a Later Deadline, Filed and Was Granted an Extension
2 which they then failed to answer, and became **IN DEFAULT**.

3 4. SELECT SERVICING and CAL LAND **JOINED** with WMC MORTGAGE
4 in the remainder of their actions. (**CONSPIRACY**).

5 5. The law firms with their 1000+ attorneys continued to blatantly Conspire to
6 CONCEAL, DECEIVE and MISREPRESENT to this Court and the Public at Large, in the
7 100's of pages that they jointly filed.

8 6. **THE 'SUMMONS DEFAULT LAWS' ARE 'BLACK LETTER', PRECLUDES**
9 **ANY LITIGATION WHATSOEVER, AND HAS GRAVE CONSEQUENTS.**

10 **A. UNDISPUTABLE FACTS:**

- 11 a. Neither CAL LAND TITLE nor WMC MORTGAGE answered their
12 summons.
13 b. Failure to answer:
14 a) If the defendant serves neither an answer nor one of the motions
15 described in Federal Rule 7012(b) within the time fixed by Rule
16 7012(a), the defendant is said to be in default.
17 b) C.C.P. § 430.80 the Party Is Deemed to Have Waived Their
18 Right to Object.
19 c. Hence, from the onset of Law Firms: REED SMITH, DANIEL A.
20 GAMER and WRIGHT FINLAY & ZAK'S representation, WMC
21 MORTGAGE was in default and had waived their right to litigate.
22 d. The default can result in a DEFAULT JUDGEMENT.
23 e. The judgement can result in their losing the case and having
24 sanctions logged against them
25 f. The Law Firms submitted hundred's of pages of documents.
26 g. Every action which REED SMITH committed from that time on
27 was fraudulent.
28

24 For the foregoing reasons and others, Plaintiff respectfully sites the following reasons that
25 it would be proper for this Court to grant the instant Administration Motion.

- 26 1. The Marin County Superior Court has the TRUE jurisdiction.
27 2. REED SMITH ETAL is in default and are prohibited from litigating.
28

REQUEST FOR JUDICIAL NOTICE

2. REED SMITH ETAL is in default and are prohibited from litigating.
3. REED SMITH ETAL' filings are fraudulent and must be struck on their face.
4. PATRICIA C. BARBERA is 77 Years Old, is disabled, and has been the victim of
'FINANCIAL ABUSE' from REED SMITH ETAL and/or their clients for a
decade.
5. The CALIFORNIA WELFARE AND INSTITUTIONS CODE § 15600:
 - (a) The Legislature recognized that the elders and dependant adults may be
subjected to abuse, neglect, or abandonment and that this State has the
responsibility to protect these persons.
6. The CALIFORNIA WELFARE AND INSTITUTIONS CODE § 15656.03.
 - (d) (1) Upon filing a petition for protective orders under this section, the
petitioner may obtain a temporary restraining order in accordance with Section
527 of the Code of Civil Procedure.
7. On May 22, 2008 that was precisely what she did. See exhibit order executed on
May 23, 2008 (Precedent)

2. CONCLUSION:

For the foregoing reasons, Plaintiff respectfully requests that This Court grant her request
to; Strike All Documents Submitted Without Consideration of Their Value; Execute the Order to
Vacate this Case and Remand it to the Marin County Superior Court, from Which it Came and
Make Appropriate Findings.

Date: July 22, 2008

Patricia C. Barbera

Patricia C. Barbera

REQUEST FOR JUDICIAL NOTICE

4

EXHIBITS

FILED

MAY 23 2008

**KIM TURNER, Court Executive Officer
MARIN COUNTY SUPERIOR COURT**

By: S. Bond, Deputy

1 Patricia C. Barbera
2 24 Caribe Isle
3 Novato, CA 94949
4 In Pro Per
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MARIN

UNLIMITED CIVIL JURISDICTION

10
11 **PATRICIA C. BARBERA,**

CASE NO. CV 081763

12
13
14 **Plaintiff,**

15 **vs.**

**ADD CAUSE OF ACTION TO SEEK
INJUNCTIVE RELIEF.**

**TEMPORARY RESTRAINING
ORDER, SPECIFIC
PERFORMANCE ORDER and
PRELIMINARY INJUNCTION**

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19 **WMC MORTGAGE CORPORATION,**
20 **a California Corporation; aka WMC Direct,**
21 **a California Business Entity, GE**
22 **Consumer Finance, a unit of General**
23 **Electric Company; Select Portfolio**
24 **Servicing Corp, a Utah Corporation,**
25 **Fairbanks Holding Corporation, a**
26 **Delaware Corporation; California**
27 **Land Title Company Of Marin, a**
28 **California Business entity;**

Does 1 thru 100, inclusive.

Defendants.

///

1 matter, and having moved ex parte for a Temporary Restraining Order and preliminary
2 Injunction, and the Court having considered the complaint, declarations, exhibits, and
3 memorandum of law filed in support thereof, and now being advised in the premises finds
4 that:

- 5 1. This Court has jurisdiction of the subject matter of this case and there is good
6 cause to believe it will have jurisdiction of all parties hereto;
- 7 2. There is good cause to believe that the defendants have engaged and are likely
8 to engage in acts and practices that violate C.C.C. § 1780 AND TILA 15 U.S.C. §
9 1635 etal and that the Plaintiffs are therefore likely to prevail on the merits of this
10 action;
- 11 3. There is good cause to believe that irreparable harm to the Plaintiff will
12 continue without immediate action by this Court, and that damage will occur from
13 the Continuing Slander Tort Wrongs, and the Harassment of Plaintiff, and their
14 defiance to comply with rescission laws unless said defendants are immediately restrained
15 and enjoined by Order of this Court.
- 16 4. Weighing the equities and considering the likelihood of ultimate success, a
17 temporary restraining order with equitable relief is in the public interest; and
- 18 5. No security is required of the Plaintiffs for the issuance of the restraining
19 order.

20 **ORDER**

21 **1.**

22 **PROHIBITED BUSINESS ACTIVITIES**

23 **IT IS THEREFORE ORDERED THAT, In connection with the property of BARBERA**
24 **which is encumbered by a WMC loan,**

- 25 1) the fraudulent accounting activities, harassing or threatening her, the
26 Defendants are hereby temporarily restrained, and
- 27 2) enjoined from: a) in any way interfering with the BARBERA's enjoyment of her
28 Property and b) claiming exorbitant and fraudulent demands: 1) Payoff Statement

1 2) enjoined from: a) in any way interfering with the BARBERA's enjoyment of her
2 Property and b) claiming exorbitant and fraudulent demands: 1) Payoff Statement
3 \$1,214,316.51, 2) Latest Monthly Statement \$237,372.77, 3) Withholding rescission
4 compliance and

5 3) order the restitution of the Defiant Predatory Lender, WMC whereby the lender
6 must comply with the rescission laws to terminate their security interest and
7 execute the deed of reconveyance as mandated in Truth In-lending
8 (Tila), 15 U.S.C.S. § 1635 et Seq and 12 C.F.R. § 226.15 et Seq., which is:

- 9 A) Executing the Full Deed of Reconveyance and recording it at the Marin
10 County Recorder's office within 24 hours; and
11 B) to confer with Plaintiff to obtain accurate accountings and
12 C) refunding the accurate amount due within one month.

13 11.

14 ORDER TO SHOW CAUSE

15 IT IS FURTHER ORDERED, that Defendants shall appear before this Court on the
16 11 day of JUNE 2008 at 9:00 o'clock a m.,
17 at the Marin County Superior Courthouse, Room B to show cause, if there is any, why
18 this Court should not enter a ~~Further~~ Restraining Order, in substantially the form of this
19 order, pending final ruling on the Complaint against Defendants, enjoining from further
20 violation of C.C.C. § 1780 and TILA 15 U.S.C. § 1635 et seq and imposing such additional
21 relief as may be appropriate.

22 111.

23 SERVICE OF ORDER

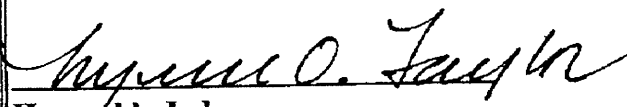
24 IT IS FURTHER ORDERED that copies of this Order may be serviced by any means,
25 including facsimile transmission or electronic mail, upon any entity or person that may be
26 subject to any provision of this order.

27 1V.

28 RETENTION OF JURISDICTION

1 IT IS FURTHER ORDERED that this Court will retain jurisdiction of this matter for all
2 purposes.

3 SO ORDERED, this 23 day of MAY, 2008, at 9:20 m.

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6 Honorable Judge
7 California Superior Court Judge
8 County of Marin

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COPY

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JUL 23 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

11 PATRICIA C. BARBERA,

12 Plaintiff,
13 v

14 WMC MORTGAGE CORPORATION

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16 Defendant,

17 CAL LAND TITLE COMPANY OF MARIN,

18
19 Defendant,

20 SELECT PORTFOLIO SERVICING, INC

21 Defendant.
22
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27

CASE NO. CV 08-2677 SBA

[Vacate and Remand to Superior Court of
California, County of Marin,
Case No. CV 081763]

[PROPOSED] ORDER OF SUPPORT
OF JUDICIAL NOTICE OF
ADMINISTRATIVE MOTION TO
SHORTEN THE TIME OF THE
HEARING TO STRIKE
FRAUDULENT DOCUMENTS
AND TO VACATE THIS CASE
AND REMAND IT TO THE STATE
COURT FROM WHICH IT
CAME, AND MAKE FINDINGS.

BY FAX

28 [Proposed] Order Of Support of the Judicial Notice of the Administrative Motion to Shorten
the Time of the Hearing to Strike Fraudulent Documents and to Vacate this Case and to
Remand it to the State Court from Which it Came, and make findings.

1 The Administrative Motion of Plaintiff to Shorten Time, and its supporting documents,
2 including the Declaration of Patricia Barbera, have been duly considered by the Court and good
3 cause appearing therefore,

4 Very Respectfully submitted.

5
6 IT IS HEREBY ORDERED that the Plaintiff is

- 7 1. Granted the Instant Administrative Motion to strike fraudulent documents;
- 8 2. to vacate this case and remand it to the State Court From which it came;
- 9 3. Finds that: REED SMITH ETAL committed CONCEALMENT, DECEIT, and
10 MISREPRESENTATION..
- 11 4. That it was committed intentionally and with malice.
- 12 5. That the Marin County State Superior Court has sole Jurisdiction.
- 13 6. REED SMITH ETAL and Their Attorneys are Liable Collectively and Individually.

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15 DATED: _____

The Honorable Sandra Brown Armstrong
United States District Judge

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28 [Proposed] Order Of Support of the Judicial Notice of the Administrative Motion to Shorten
the Time of the Hearing to Strike Fraudulent Documents and to Vacate this Case and to
Remand it to the State Court from Which it Came, and make findings.